IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 1755 OF 1984
With
CROSS OBJECTION NO. 140 OF 2006
In
FIRST APPEAL NO. 1755 OF 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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RANA KISHORESINH TAKHUBHA & ORS. - Appellant(s)
Versus
KANJI KUKA & ORS. - Respondent(s)

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Appearance :
Shri Mayur S. Barot for Appellants.
None for Respondent(s) : 1 - 2.
Shri V.C. Thomas for Respondent(s) : 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 13/07/2007

ORAL JUDGMENT

The appellants-claimants, being aggrieved by the award dated 10th August, 1982 passed by the learned Member, Motor Accident Claims Tribunal (Main), Surendranagar in Claim Petition No.318 of 1981, are before this Court with a submission that the learned Tribunal below did not award proper amount to the claimants, therefore, the amount deserves to be enhanced.

2. Shri Mayur Barot, learned Counsel for the appellants, after taking me through the entire evidence and the findings recorded by the learned Tribunal below, submitted that the learned Tribunal was unjustified in holding that the salary/income of the deceased was Rs.330/- per month and further erred in holding that the deceased was only to work for a period of five years. The learned Counsel submitted that from the statement of the widow of the deceased, it would clearly appear that the deceased was to work for eight years and he was also to get increments, etc. It was also submitted that the learned Tribunal below erred in not appreciating that had the deceased completed further service of eight years, he could have earned bonus, gratuity and provident fund. He submitted that the claimants are entitled to a further sum of Rs.46,000/-.

3. Shri V. C. Thomas, learned Counsel for respondent No.3,

however, submitted that the learned Tribunal was absolutely justified in making the award and the award does not call for any interference.

4. So far as the question of age of the deceased is concerned, it is to be seen from Exh.46, certificate issued by the Works Manager of Dhrangadhra Chemical Works where the deceased was working, that the deceased was getting Rs.630.68 per month and that he had five years' service to his credit from 23rd November, 1981. The certificate has been filed by the appellants; they have consciously relied upon the said certificate, therefore, they would not be allowed to say anything contrary to their own document. From this document, it would be clear that the deceased was earning Rs.630.68 per month and that he only had five years' service to his credit. Where a person is required to serve for a period of five years only, then, in his case, application of the multiplier of five cannot be said to be on lower side. The learned Tribunal was also justified in holding that the deceased might be investing at least a sum of Rs.230.68 per month on his own self and the dependency of the family would be Rs.400/-. The learned Tribunal below certainly was justified in finding the dependency to be Rs.4,800/- per year or Rs.24,000/- with the help of the multiplier.

5. I find no reason to interfere with the award. The appeal deserves to and is, accordingly, dismissed.

6. As none appears for pressing the Cross Objections, the Cross Objections are also rejected.

[R.S.Garg, J.]

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